

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Kristan L. Nason, et al.

v.

Civil No. 09-cv-00001-JL

Progressive Northern
Insurance Company

**ORDER AFTER PRELIMINARY
PRETRIAL CONFERENCE**

The Preliminary Pretrial Conference was held in chambers on
June 22, 2009.

The case will proceed on Counts 1 and 2 only. Count 3 is withdrawn, and Count 4 is not truly a count, but rather an assertion of entitlement to a form of damages.

The agreed to portions of the parties' proposed discovery plans (documents no. 14 and 15) are approved as submitted, with the following changes:

- Trial -- **September 2010**
- Summary Judgment -- **April 15, 2010**
- Discovery completed -- **April 1, 2010**
- Plaintiffs' Expert Disclosure -- **December 1, 2009**
- Defendant's Expert Disclosure -- **February 1, 2010**

- Expert challenges -- **March 1, 2010** (responses due 21 days from challenge)
- Third party joinder -- **October 1, 2009**
- Third party actions -- **September 15, 2009**
- Pleading Amendment Deadline -- **September 1, 2009**
- "DiBenedetto" disclosure deadline -- **September 15, 2009**

Based on the discussions between the court and counsel at the conference, the following affirmative defenses are **stricken** without prejudice to being reinstated on request if warranted by the evidence: Defendant's defense "B" (comparative negligence).

Paragraph 19 of the defendant's Answer is modified to indicate that the defendant neither confirm nor denies the plaintiffs' corresponding allegation.

Discovery disputes. Discovery disputes will be handled by the undersigned judge in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The Deputy Clerk will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. Such motions should expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will normally be granted.

Summary Judgment. The parties and counsel are advised that compliance with Rule 56 and Local Rule 7.2(b), regarding evidentiary support for factual assertions, and specification and delineation of material issues of disputed fact, will be required.

Service of process costs. The plaintiff's motion for miscellaneous relief (document no. 12) is granted in part. The defendant shall reimburse the plaintiff \$156, due to plaintiffs' counsel by **July 1, 2009**. Any deadlines set forth above will be tolled one day for the plaintiffs only for each day after July 1 that the defendant's obligation to reimburse remains unsatisfied.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: June 22, 2009

cc: Jonathan S. Frizzell, Esq.
Philip R. Waystack, Jr., Esq.
Wilfred J. Desmarais, Jr., Esq.